

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS**

**Call to Order:** By **CHAIRMAN AUBYN A. CURTISS**, on March 13, 2001  
at 3:00 P.M., in Room 137 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Aubyn A. Curtiss, Chairman (R)  
Rep. Tom Dell, Vice Chairman (D)  
Rep. Douglas Mood, Vice Chairman (R)  
Rep. Dee Brown (R)  
Rep. Roy Brown (R)  
Rep. Stanley Fisher (R)  
Rep. Gary Forrester (D)  
Rep. Carol C. Juneau (D)  
Rep. Gary Matthews (D)  
Rep. Joe McKenney (R)  
Rep. Alan Olson (R)  
Rep. Trudi Schmidt (D)  
Rep. Bob Story (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Stacey Lietgeb, Committee Secretary  
Stephen Maly, Legislative Branch

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SJR 18, 4/13/2001; SB 424,  
4/13/2001; SB 19, 4/13/2001;  
SB 387, 4/13/2001  
Executive Action: SB 387

*{Tape : 1; Side : A; Approx. Time Counter : 0.3 - 8}*

**HEARING ON SJR 18**

**Sponsor:** SEN. MIKE TAYLOR, SD 37, Proctor

**Proponents:** None.

**Opponents:** Darrell Holzer, Montana AFL-CIO

**Opening Statement by Sponsor:**

**SEN. TAYLOR** stated that this bill will take a family of four, making \$35,000 or less, out of the federal income tax picture. On income of \$35,000 a family of four in Montana would have a savings of \$1,488, which should roll through the economy. The inheritance tax will probably be set in the United States Senate with a cap of \$10 to \$20 million. The inheritance tax in Montana causes a problem for small businesses, ranches, and farms when an individual dies. Oftentimes, to pay the inheritance tax, the farm, ranch, or business must be sold. The marriage penalty tax will also be eliminated. The administration believes that these tax cuts will stimulate the economy, but in order for the tax cuts to work, there must be a reduction in federal spending by two percent. Despite these cuts, they are also taking care of education, funding for social security, and a Medicare plan, including some protection for prescription drugs.

**Opponents' Testimony:**

**Darrel Holzer, AFL-CIO**, offered opposition to SJR 18, but not opposition to tax relief in Montana and American citizens. The current analysis of the tax issues conducted by Citizens for Tax Justice shows that the tax payers in the lowest 60 percent income scale would receive only 12.7 percent of the proposed tax cuts, and their average annual tax cut would be \$256; the bottom 20 percent would see an average annual tax cut of \$47. In contrast, the 10 percent wealthiest tax payers would receive 60.3 percent of the proposed tax cut, an average tax cut of \$7,300 each year. The wealthiest one percent of all tax payers would receive an average tax reduction of \$54,000 per year for 45% of the proposed tax cut. He went over further statistics on the issue, and said that there is considerable legitimacy to the argument that the Bush proposal is skewed towards those with the higher incomes. He further stated that as of March 8, the newly revised estimates by the Congressional Joint Commission on Taxation (CJT) show that the cost of the tax plan proposed by President Bush would be substantially greater than the \$1.6 trillion estimate generated

last year. On March 1, the United States House Ways and Means Committee approved HR 3, which would implement the proposed income tax rate cuts under a slightly accelerated schedule. The March 7 analysis by Citizens for Tax Justice, based on the Joint Committee on Taxation's (JCT) of HR 3, finds that the total ten year cost of the Bush tax plan as modified by HR 3 would be in excess of \$2.4 trillion. He continued that everyone is supportive of meaningful tax relief for all American citizens; however, with the uncertainties in the economy, there should be much more dialogue and a more level and detailed approach on this. He strongly encouraged the Committee to send the message to Montana's congressional delegation that they should be clear, thoughtful, and fair to all citizens and do what is right for the country as a whole.

***{Tape : 1; Side : A; Approx. Time Counter : 8 - 21.7}***

**Questions from Committee Members and Responses:**

**REP. ROY BROWN** asked **Mr. Holzer** if these people who pay the most in income taxes are also those who employ the most people.

**Mr. Holzer** responded that, in theory, would be hard to dispute, but the burning issue should be an equitable plan irrespective of one's location or whether one is an employee. **REP. BROWN** said that knowing his stand on this resolution, what is his view on the Montana income tax structure regarding the employee's belonging to AFL-CIO. **Mr. Holzer** answered that he is unprepared to give a profound opinion on the current income tax structure in the state of Montana. Since he has a good position and pays a lot in taxes personally, he thinks that issue also needs to be revisited and adjusted accordingly. By the same token, the AFL-CIO philosophy has always been that the most fair and equitable tax systems are based on the ability to pay. **REP. BROWN** continued that since the proposals in this session do target the income tax structure to make them fair and equitable with surrounding states, she asked if there should be a decrease in the rate for the top tax payers. **Mr. Holzer** stated that as long as a tax decrease is based on what is fair to all tax payers and is not skewed to a specific sector of the tax payers, decisions should be made to strike the best possible balance on the whole.

**REP. DELL** addressed **SEN. TAYLOR** stating that there is some kind of bipartisan agreement that there should be some substantial tax relief. He commented that it is a shame that this bipartisan effort is not reflected in this Senate bill since he would like to see some sort of tax relief. He would like to adjust this so that Democrats will sign on and be part of achieving the goals in the bill. He referred to a Wall Street Journal article, which

said that President Bush's proposal is spread over too many years, and the stimulus created by the plans proposed by Presidents Kennedy and Reagan resulted over a shorter period of time, which created a positive effect on the economy.

**SEN. TAYLOR** responded that he would like Democrats to sign on to this plan. Max Baucus also would support the tax cut plan. In discussing this with Vice President Cheney, he revealed that the administration had wanted to take a conservative approach to achieve their objective and phase it in gradually. In follow up, **REP. DELL** stated that the other premise of this article was condensed tax relief being a better stimulus to the economy, but it also said that some of the surplus should be used toward helping fund private social security accounts. **SEN. TAYLOR** replied that the Republican controlled Congress tried to get President Clinton to do this. The current administration would probably be in favor of this; it is taking care of social security in this tax cut. In final follow up, **REP. DELL** said that the rationale for this came from the Concord coalition, a bipartisan coalition of Democrats and Republicans. This group supports giving some of the surplus back in tax relief, but also supports giving some of it to jump start these private social security accounts.

**Closing by Sponsor:**

**SEN. TAYLOR** reminded that Committee that the people at the top are getting a benefit. When the people at the top pay the most and you are giving an across-the-board tax cut, these people will receive the most money back. The tax cut will set aside a rainy day fund of over \$1 trillion. The debt and spending are reduced by one-third; education and defense are increased; social programs are taken care of at an increase based on inflation. It is a good plan for Montanans and for the United States.

***{Tape : 1; Side : A; Approx. Time Counter : 21.7 - 27.6}***

**HEARING ON SB 424**

**Sponsor:** **SEN. BILL GLASER, SD 8, Huntley**

**Proponents:** None.

**Opponents:** **Patrick Judge, Montana Environmental Information Center (MEIC)**

**Opening Statement by Sponsor:**

**SEN. BILL GLASER, SD 8, Huntley**, stated that this bill is his philosophy, and it conflicts with all other energy bills this session. It states that, for a risk, a reward is entitled. He believes in reward for risk. He asked someone from the industry why there are no default providers, and the response was that there is no profit. He thinks that there needs to be profit. People shun Montana as a place to build a future because it is all risk and no reward. He explained his bill saying that if a company invests in a default provider business in Montana, there will be a reward for the risk. The PSC sets rules and determines what the profit for the default providers will be.

***{Tape : 1; Side : A; Approx. Time Counter : 27.6 - 28.8}***

**Opponents' Testimony:**

**Patrick Judge, representing the Montana Environmental Information Center (MEIC)**, stated that from the beginning of the deregulation debate MEIC has advocated for the interests of Montana's environment and small consumers. The bill poses a risk for the small consumers in saddling them with rates that are not necessarily justified. The principle that has governed rate making and other areas of business is that if there is risk, profit is the compensation. This does conflict with other bills dealing with the energy situation, SB 243 sponsored by

**SEN. JOHNSON** eliminates all risks for the default provider. If there is no risk, there should be no profit. In the past, if an energy company or integrated utility invested in a power plant and purchased energy, either they were compensated for it or they made a profit on it. If they went to market and purchased an energy supply and passed it through to customers, this was not an investment, but they were compensated appropriately. Montana Power Company Distribution Utility, which will be owned by Northwestern Corporation, will have all of its costs covered, unless there were some sort of unlikely situation in which the PSC would disallow those costs. There is a short review period, and it is expected that the power company will make judicious decisions. He emphasized that Montana State University (MSU) was involved in a concept embraced by the Legislature last session. The Small Customer Buying Cooperative Act was passed by SB 406, which allowed an electricity buying cooperative to serve as a default supplier; it is a non-profit entity, and is so limited by that statute. There are also 26 non-profit rural electric cooperatives, which secure a supply and recover their costs by their members. It is irreconcilable to embrace both SB 243, where the risk is minimized, and designate Montana Power Company as the default provider, and to pass this bill where they are given profit for no risk.

**{Tape : 1; Side : B; Approx. Time Counter : 0.0 - 6}**

**Questions from Committee Members and Responses:**

In response to a question from **REP. STORY**, **SEN. GLASER** said that it was correct that the essence of the bill was to include a reasonable rate of return.

**Closing by Sponsor:**

**SEN. GLASER** closed, saying that what is wrong with Montana is clear to him. He explained that **SEN. JOHNSON's** bill assumes that there will be a profit in the lines. If Northwestern takes a profit in the lines, then the Legislature has said that they are the only default provider that will ever be. Any other company that would try to compete against them must put the profit on the power, and when they do that, they will have the disadvantage of subsidizing their competition.

**{Tape : 1; Side : B; Approx. Time Counter : 6 - 28.8}**

**HEARING ON SB 19**

**Sponsor:** **SEN. MIKE HALLIGAN, SD 34, Missoula**

**Proponents:** **Ellen Engstedt, Montana Wood Products**  
**Patrick Judge, Montana Environmental Information**  
**Center**  
**Gary Feland, PSC**  
**Tom Daubert, Ash Grove Cement Company**  
**Julie Ippolito, HRDC Director Association**  
**Matthew Leow, Montana Public Interest Research Group**  
**(PIRG)**  
**Russ Ritter, Montana Resources**  
**John Youngberg, Montana Farm Bureau**

**Opponents:** **None**

**Opening Statement by Sponsor:**

**SEN. MIKE HALLIGAN, SD 34, Missoula**, reviewed the intent of his bill, which is to revise the laws governing customer choice in electric energy supply and extends the transition period. He went over the amendments to the bill, which allow the PSC to extend customer choice determination beyond 2004 if necessary. It is a clean bill that deals only with the customer choice issue

and has nothing to do with the other aspects of the PSC's abilities, responsibilities, and obligations to deal with the transition. Other changes in the bill extend the time frames for the various reports from committees and are not substantive amendments. Since we do not know how long it will take for the competitive market to develop, this bill gives additional time for that to happen if it is going to occur.

**Proponents' Testimony:**

**Gary Feland, Chairman of the Public Service Commission,** spoke on behalf of the other commissioners in support of SB 19. This bill provides the PSC with the necessary flexibility in extending the transition period two more years. The Commission supports this concept as a partial short-term solution to lessening the negative impacts of the skyrocketing electric prices on Montana consumers.

**Russ Ritter, Montana Resources,** said that his company is looking for any opportunity to reopen the mine in Butte. The company has 334 people that have been out of work since June 20, 2000. This piece of legislation is one of the tools that will allow Montana Resources to reopen and remain open until such time as electricity can be brought down to affordable levels.

**Matthew Leow, Montana Public Interest Research Group,** spoke in support of SB 19. Many think that SB 243 will be passed, but there is much uncertainty as to what will happen at the end of the session. There is flux in that bill. SB 19 is a clean bill, and if the Committee wants a clean option for the end of the session, please pass this bill.

**Patrick Judge, Montana Environmental Information Center,** testified that regulation is not working as intended, so the Legislature must do something to address the current problems and impending threats to Montana's small electricity customers. SB 18 postpones the market development period for those small customers and recognizes that those competitive markets do not exist. Montana has a small population, small loads, rural character, and there is not a lot of money to be made here, consequently, there is not a lot of clout.

**Tom Daubert, Ash Grove Cement Company,** offered strong support for the bill. He commented that the energy pricing crisis is serious and urged the Committee to keep this bill alive.

**Ellen Engstedt, Montana Wood Products Association,** testified in support of SB 19.

**John Youngberg, Montana Farm Bureau**, stated that the energy situation is important to agriculture. Many conservation issues of the past years and increases in production are the result of irrigation, and agricultural irrigators cannot afford to see electricity rates go up at the rates that are being discussed in other venues. They are not sure that this bill is the answer to the problem, but it is important to keep this bill as an alternative.

**Questions from Committee Members and Responses:**

**REP. DELL** asked **Mr. Feland** if the PSC can already do this.

**Mr. Feland** said that they were only allowed to extend it for two years, which it has already done, and this will extend it out another two years. **REP. DELL** asked if it would be 2006 instead of 2004, and **Mr. Feland** said that is the case. This is to try to reach a point where more generation is coming on line. **REP. DELL** asked if he expected this to help address the cost of the supply.

**Mr. Feland** said that it should, and the idea is to allow the default supplier to contract for longer terms and receive better deals. It allows an extended period of time to protect the consumer, until there is more generation. On follow up,

**REP. DELL** asked if, in contracting out, they are anticipating long-term or short-term contracts. **Mr. Feland** said that he hopes that PPL may be easier to deal with than suppliers elsewhere. They are sending out a request for proposal (RFP). **REP. DELL** asked what he anticipates with the RFP's being sent out in terms of reassuring his constituents. **Mr. Feland** replied that they know what California contracted for, so hopefully the RFP's will come in cheaper than that. Also, with some of the bills in the Legislature, maybe we can work out some bill to keep the price of power down, hopefully around \$.05 or \$.06.

***{Tape : 2; Side : A; Approx. Time Counter : 6 - 14.4}***

**REP. STORY** asked if allowing the extended transition time keeps everyone on the Montana system locked into it. **SEN. HALLIGAN** responded that it does, but a transition plan could be developed to allow a certain number to get off that system. **REP. STORY** asked if the extension will help the situation or extends the anguish another two years. **SEN. HALLIGAN** said that the longer time frame allows the state to use a portfolio approach to determine which is the best option during the transition to choice as the generators come online and rates come down. He does not serve on the Transition Advisory Council.



**REP. FORRESTER** asked if SB 19 would still work if SB 243 did not pass. **SEN. HALLIGAN** said that the bill is a mechanism to allow the PSC to use its expertise in working with utilities to receive bids and do all of the things that **SEN. JOHNSON's** bill will do without legislative involvement.

**Closing by Sponsor:**

**SEN. HALLIGAN** stated that the dates are arbitrary, but there should be enough generation in three to five years to have a surplus of power in the region and sufficient competition to move to a different way of doing this. He likes the portfolio approach to help achieve a lower rate. He asked that the Committee keep the bill alive while reviewing other bills.

**{Tape : 2; Side : A; Approx. Time Counter : 14.4 - 28.8 }**

**HEARING ON SB 387**

**Sponsor:** **SEN. JON ELLINGSON, SB 33, Missoula**

**Proponents:** **Patrick Judge, Montana Environmental Information Center**  
**Gary Willis, Montana Power Company**  
**Gary Feland, Public Service Commission**  
**Matthew Leow , Montana Public Interest Research Group**

**Opponents:** **None.**

**Opening Statement by Sponsor:**

**SEN. JON ELLINGSON, SB 33, Missoula,** presented SB 387. This bill involves net metering, which is a system of generating electricity through solar, hydro, or wind power and allows the user and generator to run their electrical needs off the electricity being generated. The excess is generated back into the electrical system, running the meter backwards. A bill was passed in the 1999 session; this bill just tweaks that one. Net metering has not had an enormous impact on the state since only 40 or 50 people are using it. The bill refers only to renewable resources, which have no negative impact on the environment, and which will, by their very nature, continue on infinitely to the future. Net metering is available only in particular situations. It can have a generating capacity of not more than 50 kilowatts, and it must be located on a customer generators premises and must operate in parallel with the services provider's distribution system. Cooperatives are exempted from offering their customers

this option. He went into the specifics of the bill as originally drafted in 1999. This bill allows the consumer to choose one of four dates during a twelve-month period of time which would be the date by which the consumer would need to use the credits generated and not used in the course of the year. It makes this more attractive for those who would like to use this system to create renewable energy.

**Proponents' Testimony:**

**Patrick Judge, MEIC**, testified in support of the legislation that would allow individuals to invest in net metering. This bill provides an incentive for people in urban areas to make it more economical to invest in renewable energy. He has discussed the bill with farmers and others who requested certain changes to the bill, such as 100 kilowatts instead of 50 and the change allowing more flexibility about when credits expire.

**Gary Willis, Montana Power Company**, said that MPC has worked out a compromise to keep track of the credits. MPC does not have problems with moving the size from 50 kilowatt to 100 kilowatt, but does have a problem with the safety issue involved in this. There have been safety features built into the bill. He explained the complexity of implementation of multiple machines and meters. Finally, net metering has no charges to the customer for providing a distribution system. When this gets bigger, that will have to change.

**Gary Feland, PSC**, offered the support of the PSC for this legislation.

**Matthew Leow, PIRG**, also offered support to the bill.

**Questions from Committee Members and Responses:**

**REP. MOOD** asked **SEN. ELLINGSON** what difference it would make when the due date is, if the net metering system is on a yearly basis.

**SEN. ELLINGSON** said that the answer to this depends on how much power is generated and how much power is used. If you use and generate the power at the same time, then you could conceivably lose some credits. The advantage is that you would know what the credits are and have the opportunity to use them up.

**REP. ROY BROWN** asked **Mr. Willis** about the safety situation he mentioned. He asked how the system is isolated when they are working on the lines. **Mr. Willis** responded that the bill has a section regarding the requirements of the generators.

**REP. DELL** questioned **Mr. Willis** regarding California's attempt to address energy demands. He wanted to know if net metering will be a growing trend. **Mr. Willis** commented that he thinks that the net metering will grow and that it will find more application in downtown businesses than elsewhere. Montana Power does not care about 50 kilowatts going up to 100 kilowatts, but it does care that as net metering grows, those people must pay for the distribution system. He sees it as part of the energy solution.

**REP. STORY** asked **Mr. Willis** if the small generators are set up so that they can be tripped out so they don't come on line.

**Mr. Willis** deferred to **Dave Ryan, Distribution Engineer for Montana Power Company**, who explained the system used to distribute electricity and the required safety standards.

**REP. STORY** asked **Mr. Willis** how, as this energy source grows, the utility will deal with the varying costs to pay for power to fill in when these aren't running and offset when they are.

**Mr. Willis** stated that he likes the bill because it will use the same tariff sheets as are being used at present, so when they net out at the end of whatever twelve months they choose, they are netting out on the same tariff sheets they are charged on. It could affect rates if the other rate payers have to pay toward their transmission distribution systems. Until we get into time of day rates, it is not a problem.

**Closing by Sponsor:**

**SEN. ELLINGSON** distributed a letter in support of this bill **EXHIBIT (feh57a01)**. He reviewed the discussions held with Montana Power Company in order to craft the bill with safety issues in mind, and he is amenable to considering safety issues at any time with the power company. He said that should the power coming on line during off hours be a problem, adjustments will have to be made with the legislation in order to continue to permit net metering. He reiterated that the bill is a tweaking of prior legislation that will enhance the net metering for those already involved in it and make it more attractive for other individuals. He asked that they give his bill favorable consideration.

**EXECUTIVE ACTION ON SB 387**

**Motion/Vote:** **REP. DELL** moved that **SB 387 BE CONCURRED IN. Motion carried unanimously.**

HOUSE COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND  
TELECOMMUNICATIONS

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**ADJOURNMENT**

Adjournment: 5:00 P.M.

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REP. AUBYN A. CURTISS, Chairman

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ROBYN LUND, Secretary

AC/RL

Transcribed by Sydney Taber.

**EXHIBIT (feh57aad)**